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State v. Collins Respondent's Brief Dckt. 41462

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IN THE SUPREME COURT OF THE STATE OF IDAHO

COPY

STATE OF IDAHO,)	
)	No. 41462
Plaintiff-Respondent,)	
)	Ada Co. Case No.
vs.)	CR-2011-13966
)	
JONATHAN A. COLLINS,)	
)	
Defendant-Appellant.)	
_____)	

BRIEF OF RESPONDENT

APPEAL FROM THE DISTRICT COURT OF THE FOURTH JUDICIAL
DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE
COUNTY OF ADA

HONORABLE MELISSA MOODY
District Judge

LAWRENCE G. WASDEN
Attorney General
State of Idaho

PAUL R. PANTHER
Deputy Attorney General
Chief, Criminal Law Division

JOHN C. McKINNEY
Deputy Attorney General
Criminal Law Division
P.O. Box 83720
Boise, Idaho 83720-0010
(208) 334-4534

ATTORNEYS FOR
PLAINTIFF-RESPONDENT

BEN PATRICK MCGREEVY
Deputy State Appellate
Public Defender
3647 Lake Harbor Lane
Boise, Idaho 83703
(208) 334-2712

ATTORNEY FOR
DEFENDANT-APPELLANT

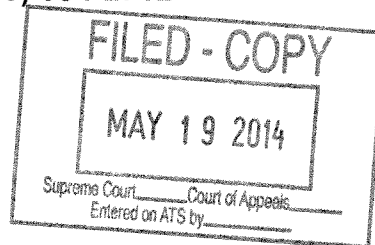


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STATEMENT OF THE CASE

Nature Of The Case

Jonathan A. Collins appeals from the district court's denial of his motion to seal his criminal case file.

Statement Of The Facts And Course Of The Proceedings

During a videotaped police interview, Collins admitted he had used his hand to touch three-year-old A.T.'s vagina, over her clothing, for about one second. (Ex. 1, 3:09:15 - 3:35:45.) Based on his admission, the state filed a Criminal Complaint charging Collins with one count of lewd conduct with a minor under sixteen. (R., pp.6-7.) Collins waived his preliminary hearing and was bound over to district court. (R., p.25, 28-30.) Collins, through counsel, filed a motion to suppress his interview statements (R., pp.39-40), and a hearing was set for December 14, 2011 (R., p.63). The day before the hearing, the state filed a motion to dismiss the case, stating, "In the interest of justice, the State no longer wishes to proceed with this matter[.]" which was granted. (R., pp.71-72.)

Almost two years later, Collins filed a Motion to Seal Court Record, claiming "public access to [his] case has caused him financial hardship due to two prospective employers denying him employment because of his association with this case," and because "public access to this case might be libelous or threaten [his] safety[.]" (R., pp.74-81.) After a hearing, the district court denied Collins' motion to seal the court records in his dismissed case (R., pp.107-109; Tr., pp.4-7), ruling that "the public's interest in information and the government's obligation for transparency" outweighed

Collins' "need and desire to seal his court file" (R., p.108). Collins filed a timely notice of appeal. (R., pp.102-104.)

ISSUE

Collins states the issue on appeal as:

Did the district court abuse its discretion when it denied Mr. Collins' motion to seal his court record pursuant to I.C.A.R. 32(i)?

(Appellant's Brief, p.5.)

The state rephrases the issue as:

Has Collins failed to show that the district court abused its discretion by denying his request to seal his criminal case file where it determined that the public interest in disclosure predominated over Collins' desire for privacy?

ARGUMENT

Collins Has Failed To Establish An Abuse Of The District Court's Discretion In Denying His Motion To Seal His Criminal Record

A. Introduction

Collins asserts that the district court abused its discretion by denying his motion to seal the criminal record in this case. (Appellant's Brief, pp.6-11.) Application of the correct legal standards to the facts of this case, however, shows that the district court correctly recognized its discretion and exercised that discretion appropriately. Collins has failed to establish an abuse of the district court's discretion.

B. Standard Of Review

Decisions by the district court to grant or deny relief under Idaho Court Administrative Rule 32 are reviewed for an abuse of discretion. State v. Turpen, 147 Idaho 869, 872, 216 P.3d 627, 630 (2009).

C. The District Court Properly Exercised Its Discretion In Determining That The Public's Interest In Disclosure Predominated Over Any Of Collins' Purported Privacy Interests In Sealing His Criminal File

Criminal judgments cannot be sealed absent the clearest showing of an overriding personal privacy interest without infringing on the public's constitutional right to information. As explained by the United States Supreme Court, in the context of criminal trials, the public has a right, protected by the First Amendment, to know what goes on in its courts. Richmond Newspapers, Inc., v. Virginia, 448 U.S. 555, 576 (1980). The Supreme Court has long held that the First Amendment does not just protect expressing ideas and disseminating information, but *receiving* information and

ideas. See Id. (citing Kleindienst v. Mandel, 408 U.S. 753, 762 (1972)); see also Branzburg v. Hayes, 408 U.S. 665, 681 (1972) (right to publish implies a right to gather information). Indeed, “the First Amendment goes beyond protection of the press and the self expression of individuals to *prohibit* government from limiting the stock of information from which members of the public may draw.” Richmond Newspapers, 448 U.S. at 575-76 (quoting First National Bank of Boston v. Bellotti, 435 U.S. 765, 783 (1978)) (emphasis added). Criminal proceedings are, and have been since time immemorial, presumptively open. Id. at 564-74. Therefore, “[a]bsent an overriding interest articulated in findings, the trial of a criminal case must be open to the public.” Id. at 581.

Consistent with the public’s constitutional right to know what transpires in criminal proceedings, the Idaho Supreme Court, “pursuant to [its] authority to control access to court records,” promulgated Idaho Court Administrative Rule 32. I.C.A.R. 32(a). At the beginning of Rule 32, the Idaho Supreme Court clearly laid out its statement of policy:

The public has a right to examine and copy the judicial department’s declarations of law and public policy and to examine and copy the records of all proceedings open to the public. This rule provides for access in a manner that:

- (1) Promotes accessibility to court records;
- (2) Supports the role of the judiciary;
- (3) Promotes governmental accountability;
- (4) Contributes to public safety;
- (5) Minimizes the risk of injury to individuals;
- (6) Protects individual privacy rights and interests;
- (7) Protects proprietary business information;
- (8) Minimizes reluctance to use the court system;
- (9) Makes the most effective use of court and clerk of court staff;
- (10) Provides excellent customer service; and

(11) Avoids unduly burdening the ongoing business of the judiciary.

In the event of any conflict this rule shall prevail over any other rule on the issue of access to judicial records.

Id.

Striking a balance between the public's constitutional right to access criminal records and the privacy interests of individuals, Rule 32 exempts from disclosure highly private information, such as PSIs, most unreturned warrants, documents that would identify jurors on a Grand Jury, and jury questionnaires. I.C.A.R. 32(g). Duly entered criminal judgments, however, are not exempted from disclosure under Rule 32.

In very narrow circumstances, court records may also be sealed under Rule 32(i). The rule does not allow the district court unfettered discretion to seal case files; rather, a court is only allowed to seal portions of a case file after it finds that the petitioner's privacy interests predominate over the public's constitutional right to know. I.C.A.R. 32(i). Even then, "[i]f the court redacts or seals records to protect predominating privacy interests, it must fashion the least restrictive exemption from disclosure consistent with privacy interests." Id. Accordingly, before a district court may seal any portion of a case file, it must first determine in writing:

(1) That the documents or materials contain highly intimate facts or statements, the publication of which would be highly objectionable to a reasonable person, or

(2) That the documents or materials contain facts or statements that the court finds might be libelous, or

(3) That the documents or materials contain facts or statements, the dissemination or publication of which would reasonably result in economic or financial loss or harm to a person having an interest in the documents or materials, or compromise the security of personnel, records or public property of or used by the judicial department, or

- (4) That the documents or materials contain facts or statements that might threaten or endanger the life or safety of individuals, or
- (5) That it is necessary to temporarily seal or redact the documents or materials to preserve the right to a fair trial.

Id.

Rule 32(i) "requires that the district court 'hold a hearing on the motion' and 'determine and make a finding of fact as to whether the interest in privacy or public disclosure predominates.'" State v. Gurney, 152 Idaho 502, 504, 272 P.3d 474, 476 (2012) (quoting I.C.A.R. 32(i)). The district court does not abuse its discretion by denying a motion to seal a criminal record after it determines that the public's interest in disclosure of the criminal proceedings predominates over the petitioner's asserted privacy interest. Id. at 504-505, 272 P.3d at 476-477.

Collins moved the district court to seal his criminal file under Idaho Court Administrative Rule 32(i), claiming that he suffered economic harm because "two prospective employers den[ied] him employment because of his association with this case[.]" and that "public access to this case might be libelous or threaten the safety of Mr. Collins." (R., p.74.) The district court, as required by Rule 32(i), held a hearing on Collins' motion. (Tr., pp.3-7.) No testimony was presented at the hearing, and no affidavit had been presented to support Collins' motion. (R., p.108 n.1.) The district court ruled from the bench that "having reviewed several times the motion to seal the court record, the applicable rules, the case law on point, I do believe that the public interest in looking at this court record outweighs Mr. Collins's [sic] desire and interest, economic interest, to have the court record sealed." (Tr., p.5, Ls.14-20.) The district court subsequently entered an Order Denying Motion to Seal Court Record, and reiterated:

The decision whether to grant or deny a motion to seal a court record is committed to the discretion of the district court. *State v. Gurney*, 152 Idaho 502, 503, 272 P.3d 474, 475 (2012). The default position, as reflected in Idaho's public records law, is that all public records are open at all reasonable times for inspection. Idaho Code § 9-338(1). It is Defendant's burden to overcome this presumption. *Gurney*, 152 Idaho at 504, 272 P.3d at 476 n.1 (it is the moving party's burden to prove that court records should be sealed.) The defendant in this case did not meet his burden. [Footnote omitted.]

The court weighed the public's interest in information and the government's obligation for transparency against the Defendant's need and desire to seal his court file. After weighing the competing interests, the Court denied Defendant's motion to seal the record. The Court noted that it would reconsider its ruling if the Defendant could show evidence that the prosecution had filed the charge in bad faith or for an improper purpose, or that probable cause did not exist at the time the charge was filed.

(R., pp.107-108.) In a footnote, the district court further explained that it "assumed for the purpose of deciding the motion that [Collins'] claims were true -- that [he] was challenged in finding employment and stigmatized by the accusation of a sex offense."

(R., p.108 n.1.) The record shows that the district court weighed the public's interest in disclosure against Collins' interest in privacy. The district court properly exercised its discretion, and Collins has failed to show any abuse of that discretion.

On appeal, Collins first asserts the district court abused its discretion by not adequately considering "that the documents or materials in [his] court records contain facts or statements that might be libelous[,]" including the Complaint and Information.

(Appellant's Brief, pp.7-8.) Collins specifically argues:

[A.T.'s mother], the original source of the allegation against Mr. Collins had lied to police officers in the past. When viewed alongside the State's request that the district court dismiss the charge against [him] "in the interest of justice," a request that closely followed [his] giving notice of his intent to present evidence on [A.T.'s mother's] past lies, [her] history of lying indicates that she was also lying about Mr. Collins' alleged lewd

conduct. Thus, the statements that Mr. Collins committed the crime of lewd conduct are defamatory *per se*.

(Appellant's Brief, pp.8-9 (citations to record omitted) (explanation added).)

Collins' logic is flawed. Even assuming A.T.'s mother lied to police in the past, it does not necessarily follow that she also lied about A.T.'s statements in this case. Nor does the fact that Collins notified the state of his intent to present such evidence at trial render the state's subsequent dismissal of the case an "indicat[ion] that she was also lying about Mr. Collins' alleged lewd conduct."¹ (Id.) Moreover, in light of Collins' admission to Detective Heatherley that he had placed his hand on A.T.'s vagina, outside her clothing for about one second, and immediately thought to himself, "Oh shit, what the fuck just happened" (Ex. 1, 3:09:15 - 3:35:45), Collins' claims of libel and defamation ring hollow.

Collins next argues the district court failed to adequately consider the financial loss he suffered "as a result of public access to the court records in this case[.]" as evidenced by "two prospective employers denying him employment because of his association with this case." (Appellant's Brief, p.9.) If by "adequately consider" Collins means the district court did not understand his economic situation or weigh it against the state's interest in public access to court records, the record shows otherwise. As noted, the court verbally ruled, "having reviewed several times the motion to seal the court record, the applicable rules, the case law on point, I do believe that the public interest in looking at this court record outweighs Mr. Collins' desire and interest,

¹ It is just as likely that the state's motion to dismiss, filed December 13, 2011, was motivated by a perceived problem with prevailing at a suppression hearing, set one day later, on Collins' motion to suppress the statements he made during his police interview. (R., pp.39-40, 53-63, 71.)

economic interest, to have the court record sealed." (Tr., p.5, Ls.14-20.) Simply because the district court did not give Collins' "negative economic impact" claim the weight he desires does not show that the court abused its discretion.

Finally, Collins argues that, because he "regularly attends Alcoholics Anonymous with parolees and probationers who, he fears, could harm him if they were to discover he had once been charged with a sex offense[.]" the district court should have sealed the court records. (Appellant's Brief, p.10.) Apart from being based on speculation, the record shows Collins' contention is incorrect. The district court explained at the hearing that it had "reviewed several times the motion to seal the court record" (Tr., p.5, Ls.14-20), which included Collins' assertion that he fears for his safety when he attends Alcoholics Anonymous (R., p.79). The district court's written order covered Collins' claim in general terms, explaining that, at the motion hearing, it had "weighed the public's interest in information and the government's obligation for transparency against the Defendant's need and desire to seal his court file[.]" and "[a]fter weighing the competing interests, the Court denied Defendant's motion to seal the record." (R., p.108.)

Collins has failed to show that the district court abused its discretion in denying his motion to seal his criminal case file. As recognized by Rule 32, the public's constitutional right to access criminal records "[c]ontributes to public safety" and "[m]inimizes the risk of injury to individuals." See I.C.A.R. 32(a). The district court did not abuse its discretion by denying Collins' motion to seal the record of his criminal conviction after it correctly determined that Collins' privacy interests did not predominate

over the public's interest in disclosure. The district court's order denying Collins' motion to seal should be affirmed.

CONCLUSION

The state respectfully requests that this Court affirm the district court's order denying Collins' motions to seal his criminal case file.

DATED this 19th day of May, 2014.

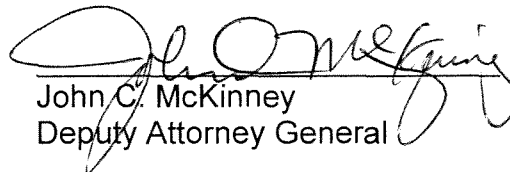

JOHN C. McKINNEY
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 19th day of May, 2014, served a true and correct copy of the attached RESPONDENT'S BRIEF by causing a copy addressed to:

BEN P. MCGREEVY
DEPUTY STATE APPELLATE PUBLIC DEFENDER

to be placed in The State Appellate Public Defender's basket located in the Idaho Supreme Court Clerk's office.


John C. McKinney
Deputy Attorney General

JCM/pm